

108TH CONGRESS
2D SESSION

H. R. 4389

To authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2004

Mr. ISSA introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DEFINITIONS.**

4 For the purposes of this section, the following defini-
5 tions apply:

1 (1) DISTRICT.—The term “District” means the
2 Fallbrook Public Utility District, San Diego County,
3 California.

4 (2) PROJECT.—The term “Project” means the
5 impoundment, recharge, treatment, and other facili-
6 ties the construction, operation, and maintenance of
7 which is authorized under subsection (b).

8 **SEC. 2. AUTHORIZATION FOR CONSTRUCTION OF LOWER**
9 **SANTA MARGARITA CONJUNCTIVE USE**
10 **PROJECT.**

11 (a) AUTHORIZATION.—The Secretary, acting pursu-
12 ant to the Federal reclamation laws (Act of June 17,
13 1902; 32 Stat. 388), and Acts amendatory thereof or sup-
14 plementary thereto, as far as those laws are not incon-
15 sistent with the provisions of this Act, is authorized to
16 construct, operate, and maintain to make the yield of the
17 Lower Santa Margarita Conjunctive Use Project to be lo-
18 cated below the confluence of De Luz Creek with the
19 Santa Margarita River on Camp Joseph H. Pendleton, the
20 Fallbrook Annex of the Naval Weapons Station, and sur-
21 rounding lands within the service area of the District
22 available for irrigation, municipal, domestic, military, and
23 other uses for the District and such other users as herein
24 provided.

1 (b) CONDITIONS.—The Secretary of the Interior may
2 construct the Project only after the Secretary of the Inte-
3 rior determines that the following conditions have oc-
4 curred:

5 (1) The District has entered into a contract
6 under section 9(d) of the Reclamation Project Act of
7 1939 to repay to the United States appropriate por-
8 tions, as determined by the Secretary, of the actual
9 costs of constructing, operating, and maintaining the
10 Project, together with interest as hereinafter pro-
11 vided.

12 (2) The officer or agency of the State of Cali-
13 fornia authorized by law to grant permits for the ap-
14 propriation of water has granted such permits to the
15 Bureau of Reclamation for the benefit of the De-
16 partment of the Navy and the District as permittees
17 for rights to the use of water for storage and diver-
18 sion as provided in this Act, including approval of all
19 requisite changes in points of diversion and storage,
20 and purposes and places of use.

21 (3) The District has agreed that it will not as-
22 sert against the United States any prior appropria-
23 tive right the District may have to water in excess
24 of the quantity deliverable to it under this Act, and
25 will share in the use of the waters impounded by the

1 Project on the basis of equal priority and in accord-
2 ance with the ratio prescribed in section 4(b). This
3 agreement and waiver and the changes in points of
4 diversion and storage under paragraph (2), shall be-
5 come effective and binding only when the Project
6 has been completed and put into operation.

7 (4) The Secretary of the Interior has deter-
8 mined that the Project has economic and engineer-
9 ing feasibility.

10 **SEC. 3. COSTS.**

11 The Department of the Navy shall not be responsible
12 for any costs in connection with the Project, except upon
13 completion and then shall be charged in reasonable pro-
14 portion to its use of the Project under regulations agreed
15 upon by the Secretary of the Navy and Secretary of the
16 Interior.

17 **SEC. 4. OPERATION; YIELD ALLOTMENT; DELIVERY.**

18 (a) OPERATION.—The operation of the Project may
19 be by the Secretary of the Interior or otherwise as agreed
20 upon by the Secretaries of the Interior and the Navy and
21 the District, under regulations satisfactory to the Sec-
22 retary of the Navy with respect to the Navy's share of
23 the impounded water and national security.

24 (b) YIELD ALLOTMENT.—Except as otherwise agreed
25 between the parties, the Department of the Navy and the

1 District shall participate in the water impounded by the
2 Project on the basis of equal priority and in accordance
3 with the following ratio:

4 (1) 60 percent of the Project's yield is allotted
5 to the Secretary of the Navy.

6 (2) 40 percent of the Project's yield is allotted
7 to the District.

8 (c) CONTRACTS FOR DELIVERY OF WATER.—

9 (1) IN GENERAL.—If the Secretary of the Navy
10 certifies that the Secretary does not have immediate
11 need for any portion of the 60 percent yield allotted
12 under subsection (b), the official agreed upon to ad-
13 minister the Project may enter into temporary con-
14 tracts for the delivery of the excess water.

15 (2) FIRST RIGHT FOR EXCESS WATER.—The
16 first right of the Secretary of the Navy to demand
17 that water without charge and without obligation on
18 the part of the United States after 30 days notice
19 shall be included as a condition of contracts entered
20 into under this subsection. The first right to water
21 available under paragraph (1) shall be given the Dis-
22 trict, if otherwise consistent with the laws of the
23 State of California.

24 (3) DISPOSITION OF FUNDS.—Moneys paid in
25 to the United States under a contract under this

1 subsection shall be covered into the general Treasury
2 or to the Secretary of the Navy, as services in lieu
3 of payment for operation and maintenance of the
4 Project, and shall not be applied against the indebt-
5 edness of the District to the United States.

6 (4) MODIFICATION OF RIGHTS AND OBLIGA-
7 TIONS RELATED TO WATER YIELD.—The rights and
8 obligations of the United States and the District re-
9 garding the ratio or amounts of Project yield deliv-
10 ered may be modified by an agreement between the
11 parties.

12 **SEC. 5. REPAYMENT OBLIGATION OF THE DISTRICT.**

13 (a) IN GENERAL.—The general repayment obligation
14 of the District (which shall include interest on the
15 unamortized balance of construction costs of the Project
16 allocated to municipal and domestic waters at a rate equal
17 to the average rate, which rate shall be certified by the
18 Secretary of the Treasury, on the long-term loans of the
19 United States outstanding on the date of this Act) to be
20 undertaken pursuant to section 2 shall be spread in an-
21 nual installments, which need not be equal, over a period
22 of not more than 56 years, exclusive of the development
23 period, or as near thereto as is consistent with the oper-
24 ation of a formula, mutually agreeable to the parties,

1 under which the payments are varied in the light of factors
2 pertinent to the irrigators' ability to pay.

3 (b) DEVELOPMENT PERIOD.—The development pe-
4 riod shall begin in the year in which water for use by the
5 District is first available, as announced by the Secretary
6 of the Interior or the Treasury, and shall end in the year
7 in which the Project's yield to the District exceeds 6,000
8 acre-feet per annum. During the development period water
9 shall be delivered to the District under annual water rental
10 notices at rates fixed by the Secretary of the Interior or
11 the Treasury and payable in advance, and any moneys col-
12 lected in excess of operation and maintenance costs shall
13 be credited to repayment of the capital costs chargeable
14 to the District and the repayment period fixed herein shall
15 be reduced proportionately.

16 (c) MODIFICATION OF RIGHTS AND OBLIGATION BY
17 AGREEMENT.—The rights and obligations of the United
18 States and the District regarding the repayment obliga-
19 tion of the District may be modified by an agreement be-
20 tween the parties.

21 **SEC. 6. TRANSFER OF CARE, OPERATION, AND MAINTENANCE.**
22

23 The Secretary may transfer to the District, or a mu-
24 tually agreed upon third party, the care, operation, and
25 maintenance of the Project under conditions satisfactory

1 to that Secretary and the District, and with respect to
2 the portion of the Project that is located within the bound-
3 aries of Camp Pendleton, satisfactory also to the Secretary
4 of the Navy. If such a transfer takes place, the District
5 shall be entitled to an equitable credit for the costs associ-
6 ated with the Secretary's proportionate share of the oper-
7 ation and maintenance of the Project. The amount of such
8 costs shall be applied against the indebtedness of the Dis-
9 trict to the United States.

10 **SEC. 7. SCOPE OF ACT.**

11 For the purpose of this Act, the basis, measure, and
12 limit of all rights of the United States pertaining to the
13 use of water shall be the laws of the State of California.
14 That nothing in this Act shall be construed—

15 (1) as a grant or a relinquishment by the
16 United States of any rights to the use of water that
17 it acquired according to the laws of the State of
18 California, either as a result of its acquisition of the
19 lands comprising Camp Joseph H. Pendleton and
20 adjoining naval installations, and the rights to the
21 use of water as a part of that acquisition, or through
22 actual use or prescription or both since the date of
23 that acquisition, if any;

1 (2) to create any legal obligation to store any
2 water in the Project, to the use of which the United
3 States has such rights;

4 (3) to constitute a recognition of, or an admis-
5 sion that, the District has any rights to the use of
6 water in the Santa Margarita River, which rights, if
7 any, exist only by virtue of the laws of the State of
8 California; or

9 (4) to require the division under this Act of
10 water to which the United States has such rights.

11 **SEC. 8. LIMITATIONS ON OPERATION AND ADMINISTRA-**
12 **TION.**

13 Unless otherwise agreed by the Secretary of the
14 Navy, the Project—

15 (1) shall be operated in a manner which allows
16 the free passage of all of the water to the use of
17 which the United States is entitled according to the
18 laws of the State of California either as a result of
19 its acquisition of the lands comprising Camp Joseph
20 H. Pendleton and adjoining naval installations, and
21 the rights to the use of water as a part of those ac-
22 quisitions, or through actual use or prescription, or
23 both, since the date of that acquisition, if any; and

24 (2) shall not be administered or operated in any
25 way which will impair or deplete the quantities of

1 water the use of which the United States would be
2 entitled under the laws of the State of California
3 had the Project not been built.

4 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

5 There is authorized to be appropriated, out of any
6 money in the Treasury of the United States not otherwise
7 appropriated, the following:

8 (1) \$60,000,000 (the current estimated con-
9 struction cost of the Project, plus or minus such
10 amounts as may be indicated by the engineering cost
11 indices for this type of construction); and

12 (2) such sums as may be required to operate
13 and maintain the said project.

14 **SEC. 10. REPORTS TO CONGRESS.**

15 Not later than 1 year after the date of the enactment
16 of this Act and periodically thereafter, the Attorney Gen-
17 eral, the Secretary of the Interior, and the Secretary of
18 the Navy shall each report to the Congress regarding if
19 the conditions specified in section 2(b) have been met and
20 if so, the details of how they were met.

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